

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

CYNTHIA TOMPKINS,	:	09 Civ. 8466 (SHS)
	:	
Plaintiff,	:	
	:	
-against-	:	<u>ORDER</u>
	:	
LOCAL 32BJ, SEIU, et al.,	:	
	:	
Defendants.	:	

-----X

SIDNEY H. STEIN, U.S. District Judge.

On February 1, 2011, Magistrate Judge Ronald L. Ellis issued a Report and Recommendation recommending that Tompkins' claims against defendant AlliedBarton Security Services, LLC ("AlliedBarton") be dismissed. Objections to the Report and Recommendation were due by February 18, 2011. To date, the Court has received no objections from plaintiff. After a *de novo* review of the Report and Recommendation dated February 1, 2011, IT IS HEREBY ORDERED that:

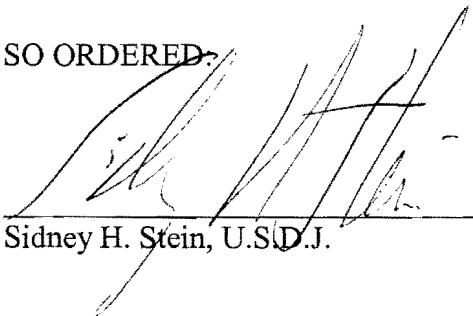
1. Magistrate Judge Ellis's Report & Recommendation is adopted; and
2. The complaint is dismissed.

AlliedBarton has also requested that the Court award AlliedBarton its reasonable attorney's fees and expenses on the ground that Tompkins acted vexatiously in bringing this second non-meritorious lawsuit regarding her job classification. Plaintiff's conduct in this action does not rise to the level of vexatiousness that warrants an award of attorney's fees and expenses. *See Sassower v. Field*, 973 F.2d 75, 80-81 (2d Cir. 1992). Whether or not Tompkins' third lawsuit regarding her job classification, *Tompkins v. Local 32BJ, SEIU, AlliedBarton*

Security Services, No. 11 Civ. 0414 (PGG), is a predicate for an award of attorney's fees is not before this Court.

Dated: New York, New York
March 7, 2011

SO ORDERED:



A handwritten signature in black ink, appearing to read 'SHS', is written over a horizontal line. The signature is stylized with a large 'S' and 'H'.

Sidney H. Stein, U.S.D.J.